



UNITED STATES PATENT AND TRADEMARK OFFICE

clm
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,263	08/25/2000	Jeffrey A. Korn	1002-0003	4695
25263	7590	04/06/2007	EXAMINER	
J GRANT HOUSTON AXSUN TECHNOLOGIES INC 1 FORTUNE DRIVE BILLERICA, MA 01821			LEE, JOHN R	
			ART UNIT	PAPER NUMBER
			2878	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/06/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/648,263	KORN ET AL.	
	Examiner	Art Unit	
	John R. Lee	2878	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 8/25/200.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 November 2005 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/26/2001, 8/31/2001</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-2, 6-10, and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al (5,798,855) in view of Ishikawa et al. (5,754,322)

Alexander et al. teach a signal source (20), dichroic filter (90), a first detector (100) and a second detector (also 100). Alexander et al. fail to teach an additional tunable filter.

Ishikawa et al teach a tunable filer (71).

It would have been obvious to one of ordinary skill in the art to add the filter 71 of Ishikawa et al. into the monitoring apparatus of Alexander et al. so as to filter the optical

Art Unit: 2878

signal before splitting the signal into separate channels because this would eliminate unwanted parts of the spectrum from being transmitted to the detectors.

Regarding claim 2, Alexander et al. teach an isolator in col. 6, line 4. Regarding claim 6, C and L bands are common communications bands that require monitoring. Therefore, it would have been obvious to modify the device of Alexander et al. to receive those bands so that the device could be used in modern communications systems. Regarding claims 7-8, deciding on the bands to tune are application dependent and would have been obvious in adapting Alexander et al. for use in modern communications systems.

Regarding claims 9-10 and 13-15, the method steps mirror the above system limitations and are thus obvious for the same reasons.

Claims 3-5 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al (5,798,855) in view of Ishikawa et al. (5,754,322) as applied to claims 1-2, 6-10, and 13-15 above, and further in view of Obhi et al. (6,262,882).

Alexander et al. and Ishikawa et al. fail to teach a reference source and detector. Obhi et al. teach a reference source 17 and reference detector 19. They also teach an etalon (14), which functions as a Fabrey-Perot Filter. The reference signal is filtered simultaneously with the optical signal.

It would have been obvious to one of ordinary skill in the art to add the reference system of Obhi et al to the monitoring system of Alexander et al. in view of Ishikawa et

Art Unit: 2878

al. because Obhi et al. teaches that this provides for improved measurement of the optical channels (see abstract).

Conclusion

Any inquiry concerning this communication should be directed to John R. Lee at telephone number (571) 272-2477.

JR Lee
JOHN R. LEE
PRIMARY EXAMINER